



**REPORT OF THE AUDITOR OF PUBLIC ACCOUNTS
AUDIT EXAMINATION OF THE
EDMONSON COUNTY FORMER SHERIFF**

Calendar Year 1998

**EDWARD B. HATCHETT, JR.
AUDITOR OF PUBLIC ACCOUNTS
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EXECUTIVE SUMMARY

EDMONSON COUNTY
FORMER SHERIFF, JAMES H. HOLDER
CALENDAR YEAR 1998
FEE AUDIT

Description of Office

The Office of the County Sheriff is mandated and regulated by state laws and regulations. The Office of the Sheriff major responsibilities includes collecting and distributing tax collections and providing protection to the public.

Audit Results

The auditor has issued a qualified opinion on the Edmonson County Sheriff's financial statements for the period January 1, 1998 through December 31, 1998. We were unable to conduct our audit in accordance with generally accepted auditing procedures because we were unable to obtain a signed representation letter from the former Sheriff and a legal representation letter from his attorney. In addition, the former Sheriff claims that Fiscal Court would not pay all claims for transporting prisoners.

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following areas of noncompliance:

- The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998
- The Former Sheriff Should Pay Excess Fees For Calendar Year 1998
- The Former Sheriff Should Have Maintained Proper Records And Implemented Proper Accounting Procedures
- The Former Sheriff Should Have Maintained Accurate Receipts And Disbursements Ledgers
- The Former Sheriff Should Have Deposited All Fee Receipts In A Timely Manner
- The Former Sheriff Should Have Paid All Obligations In A Timely Manner
- The Former Sheriff Should Have Disbursed All Funds In Accordance With Legally Prescribed Procedures
- The Former Sheriff Should Not Have Commingled Public And Private Funds
- The Former Sheriff Should Not Have Been Paid In Excess Of Statutory Maximum Salary
- The Former Sheriff Should Have Remitted Quarterly Income Taxes In A Timely Manner
- The Former Sheriff Should Have Followed And Maintained Proper Payroll Procedures And Records
- The Former Sheriff Should Not Have Received Profit On Public Funds
- The Former Sheriff's Official Bond Should Have Been A Minimum of \$10,000
- The Former Sheriff Should Have Filed A Statement Listing All Money And Property Seized And The Disposition Thereof

Statement of Receipts, Disbursements, and Excess Fees

The financial statement of the Edmonson County Sheriff's office for calendar year 1998 reflects excess fees of \$3,884 due to the fiscal court.

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Edward B. Hatchett, Jr. Auditor of Public Accounts

To the People of Kentucky

Honorable Paul E. Patton, Governor

John P. McCarty, Secretary

Finance and Administration Cabinet

Mike Haydon, Secretary, Revenue Cabinet

Honorable N. E. Reed, Edmonson County Judge/Executive

Honorable Billy Joe Honeycutt, Edmonson County Sheriff

Honorable James H. Holder, Former Edmonson County Sheriff

Members of the Edmonson County Fiscal Court

Independent Auditor's Report

We have audited the accompanying statement of receipts, disbursements, and excess fees of the former Sheriff of Edmonson County, Kentucky, for the year ended December 31, 1998. This financial statement is the responsibility of the former Sheriff. Our responsibility is to express an opinion on this financial statement based on our audit.

Except as discussed in the fourth paragraph, we conducted our audit in accordance with generally accepted auditing standards, Government Auditing Standards issued by the Comptroller General of the United States, and the Audit Guide for County Fee Officials issued by the Auditor of Public Accounts, Commonwealth of Kentucky. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statement is free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statement. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

As described in Note 1, the former Sheriff was required to prepare the financial statement on a prescribed basis of accounting that demonstrates compliance with the cash basis and laws of Kentucky, which is a comprehensive basis of accounting other than generally accepted accounting principles. This cash basis system does not require the maintenance of a general fixed asset group or general long-term debt group of accounts. Accordingly, the accompanying financial statement is not intended to present financial position and results of operations in conformity with generally accepted accounting principles.

We were unable to conduct our audit in accordance with generally accepted auditing procedures because we were unable to obtain a signed representation letter from the former Sheriff and a legal representation letter from his attorney. In addition, the former Sheriff claims that Fiscal Court would not pay all claims for transporting prisoners.

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Honorable James H. Holder, Former Edmonson County Sheriff

Members of the Edmonson County Fiscal Court

In our opinion, except for the effects on excess fees, if any, as discussed in the preceding paragraph, the financial statement referred to above presents fairly, in all material respects, the receipts, disbursements, and excess fees of the former Sheriff for the year ended December 31, 1998, in conformity with the basis of accounting described above.

Our audit was made for the purpose of forming an opinion on the financial statement taken as a whole. The schedules listed in the table of contents are presented for purposes of additional analysis and are not a required part of the financial statement. Such information has been subjected to auditing procedures applied in the audit of the financial statement and, in our opinion, except as discussed on the preceding page, is fairly presented in all material respects in relation to the financial statement taken as a whole.

Based on the results of our audit, we have presented the accompanying comments and recommendations, included herein, which discusses the following areas of noncompliance:

- The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998
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Honorable James H. Holder, Former Edmonson County Sheriff
Members of the Edmonson County Fiscal Court

In accordance with Government Auditing Standards, we have also issued a report dated January 5, 2000 on our consideration of the former Sheriff's compliance with certain laws and regulations and internal control over financial reporting.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Hatchett", with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.
Auditor of Public Accounts

Audit fieldwork completed -
January 5, 2000

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES

Calendar Year 1998

Receipts

Federal Grants		\$	43,618
State Grants			4,275
State Fees For Services:			
Finance and Administration Cabinet			31,727
Circuit Court Clerk:			
Sheriff Security Service	\$	2,620	
Fines and Fees Collected		<u>1,270</u>	3,890
Fiscal Court			8,754
County Clerk - Delinquent Taxes			2,182
Commission On Taxes Collected			74,392
Fees Collected For Services:			
Auto Inspections	\$	3,360	
Accident and Police Reports		615	
Carry Concealed Deadly Weapon Permits		2,320	
Serving Papers		<u>8,101</u>	14,396
Other:			
Miscellaneous	\$	787	
Transfer from Drug Fund		<u>4,958</u>	5,745
Borrowed Money:			
Bank Loan			40,257
Interest Earned			<u>1,343</u>
Gross Receipts (Carried Forward)		\$	230,579

EDMONSON COUNTY
 JAMES H. HOLDER, FORMER SHERIFF
 STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES
 Calendar Year 1998
 (Continued)

Gross Receipts (Brought Forward) \$ 230,579

Disbursements

Operating Disbursements and Capital Outlay:

Payments to State:

Carry Concealed Deadly Weapon Permits \$ 1,560

Personnel Services-

Deputies' Salaries 96,346

Contracted Services-

Legal Fees	\$ 10,445	
Office Equipment Repairs	367	
Radio Maintenance and Repairs	224	
Vehicle Maintenance and Repairs	2,941	13,977

Supplies and Materials-

Office Materials and Supplies	\$ 900	
Law Enforcement Supplies	899	
Uniforms	292	2,091

Auto Expense-

Gasoline	\$ 5,067	
Vehicle Leases	14,253	19,320

Other Charges-

Postage	\$ 1,129	
Telephone	7	
Miscellaneous	524	1,660

Debt Service:

Bank Loan Repaid		40,257
Interest on Bank Loan		2,783

Total Disbursements (Carried Forward) \$ 177,994

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
STATEMENT OF RECEIPTS, DISBURSEMENTS, AND EXCESS FEES
Calendar Year 1998
(Continued)

Total Disbursements (Brought Forward)	\$ 177,994
Less: Disallowed Disbursement-	
Interest and Penalties on Late Income Tax Payments	<u>25</u>
Total Allowable Disbursements	<u>\$ 177,969</u>
Net Receipts	\$ 52,610
Less: Statutory Maximum	<u>48,726</u>
Excess Fees Due County for Calendar Year 1998	<u><u>\$ 3,884</u></u>

The accompanying notes are an integral part of the financial statement.

EDMONSON COUNTY
NOTES TO FINANCIAL STATEMENT

December 31, 1998

Note 1. Summary of Significant Accounting Policies

A. Fund Accounting

A fee official uses a fund to report on the results of operations. A fund is a separate accounting entity with a self-balancing set of accounts. Fund accounting is designed to demonstrate legal compliance and to aid financial management by segregating transactions related to certain government functions or activities.

A fee official uses a fund for fees to account for activities for which the government desires periodic determination of the excess of receipts over disbursements to facilitate management control, accountability, and compliance with laws.

B. Basis of Accounting

The financial statement has been prepared on a cash basis of accounting pursuant to KRS 68.210 as recommended by the State Local Finance Officer. Revenues and related assets are generally recognized when received rather than when earned. Certain expenses are recognized when paid rather than when a liability is incurred, including capital asset purchases. Certain other expenses are recognized when a revenue and the related asset can be associated with a corresponding liability due another governmental entity.

The measurement focus of a fee official is upon excess fees. Remittance of excess fees is due to the County Treasurer in the subsequent year. A schedule of excess of liabilities over assets is included in this report as a supplemental schedule. The schedule indicates the cumulative effect of prior year deficits under the respective fee official.

C. Cash and Investments

At the direction of the fiscal court, KRS 66.480 authorizes the Sheriff's office to invest in the following, including but not limited to, obligations of the United States and of its agencies and instrumentalities, obligations and contracts for future delivery or purchase of obligations backed by the full faith and credit of the United States, obligations of any corporation of the United States government, bonds or certificates of indebtedness of this state, and certificates of deposit issued by or other interest-bearing accounts of any bank or savings and loan institution which are insured by the Federal Deposit Insurance Corporation (FDIC) or which are collateralized, to the extent uninsured, by any obligation permitted by KRS 41.240(4).

Note 2. Employee Retirement System

The county officials and employees have elected to participate in the County Employees Retirement System (CERS), pursuant to KRS 78.530 administered by the Board of Trustees of the Kentucky Retirement Systems. This is a multiple-employer public retirement system that covers all eligible full-time employees. Benefit contributions and provisions are established by statute. Nonhazardous covered employees are required to contribute 5.0 percent of their salary to the plan. The county's contribution rate for nonhazardous employees was 8.65 percent.

EDMONSON COUNTY
NOTES TO FINANCIAL STATEMENT
December 31, 1998
(Continued)

Note 2. Employee Retirement System (Continued)

Benefits fully vest on reaching five years of service for nonhazardous employees. Aspects of benefits for nonhazardous employees include retirement after 27 years of service or age 65.

Historical trend information pertaining to CERS' progress in accumulating sufficient assets to pay benefits when due is present in the Kentucky Retirement Systems' annual financial report which is a matter of public record.

Note 3. Deposits

The former Sheriff maintained deposits with depository institutions insured by the Federal Deposit Insurance Corporation (FDIC). According to law, the depository institution should pledge sufficient securities as collateral which, together with FDIC insurance, equals or exceeds the amount on deposit at all times. In order to be valid against the FDIC in the event of failure or insolvency of the depository institution, this pledge of securities should be evidenced by an agreement that is (a) in writing, (b) approved by the board of directors of the depository institution or its loan committee, which approval must be reflected in the minutes of the board or committee, and (c) an official record of the depository institution. This agreement, signed by both parties, must be sufficient to create an enforceable and perfected security interest in the collateral under Kentucky law. The former Sheriff met the requirements stated above and as of December 5, 1998, the bank balance was fully insured or collateralized at a 100% level with securities held by the official's agent in the official's name.

Note 4. Grants

In 1996, the former Sheriff was awarded a grant under the Police Hiring Supplemental Program from the Department of Justice in the amount of \$100,542 to be expended over three years. During calendar year 1998, the former Sheriff received funds totaling \$24,418 and spent funds totaling \$24,418. The unexpended balance at December 31, 1998, is \$0.

Note 5. Budget

The former Sheriff, James Holder, has a deficit of \$13,574 in his official fee bank account as of December 31, 1998. The primary reason that the deficit increased over the prior year deficit of \$11,984 was due to the sheriff's salary paid exceeding the statutory maximum salary. In addition, the former Sheriff asserts that Fiscal Court would not pay all claims for transporting prisoners.

Note 6. Drug Fund

On November 26, 1990, a court order was issued by the Edmonson Circuit Court for the Sheriff to retain proceeds from the sale of abandoned or confiscated property for the use of drug enforcement and official expenses of the Sheriff's office. The Sheriff may expend these funds for any law enforcement purposes deemed necessary. As of December 31, 1997, the drug enforcement fund had a balance of \$376. During calendar year 1998, the fund has receipts of \$18,405 and disbursements of \$18,781. As of December 31, 1998, the drug enforcement fund had a balance of \$0.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
SCHEDULE OF DRUG FUND RECEIPTS, DISBURSEMENTS, AND FUND BALANCE

December 31, 1998

Fund Balance as of January 1, 1998	\$	376
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Receipts

Sale of Drug Enforcement Canine	\$	2,250
Sale of 4-Wheeler		1,800
Cash Seized in Drug Raid		6,041
Unidentified Receipts		<u>8,314</u>
Total Receipts	\$	18,405

Disbursements

Gasoline	\$	33
Horse Feed and Supplies		1,905
Law Enforcement Supplies		289
Legal Fees		3,376
Training		114
Transfers to Payroll Account for Salaries		4,959
Transporting Prisoners		6,050
Vehicle Maintenance and Repairs		301
Miscellaneous		<u>1,754</u>
Total Disbursements		<u>18,781</u>
Fund Balance as of December 31, 1998	\$	<u><u>0</u></u>

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
SCHEDULE OF EXCESS OF LIABILITIES OVER ASSETS

As Of December 31, 1998

Assets

Cash in Bank		\$	11,369
Receivables:			
December 1998 Business	\$	9,479	
Net Amount Due from Tax Accounts		678	
Due from Sheriff for Salary Paid in Excess of Statutory Maximum		1,407	
Due from Deputies for Salary Overpayments		126	
Overpayment of Federal Withholding Taxes and FICA		1,209	
Overpayment of State Withholding Tax		139	
Due from Kentucky Retirement Systems		3	
Due from 1997 Fee Account - Medicare Due from Fiscal Court		53	
Due from Payroll Account - 1997 Payroll and Payroll Related Items		765	
Due from 1997 Fee Account - State Bailiff Receipts		564	
Due from 1996 Fee Account-			
Due from Payroll Account - 1998		278	
Due from Payroll Account - 1997		2,836	17,537
			<hr/>
Total Assets		\$	28,906

Liabilities

Outstanding Checks		\$	20,756
1996 Outstanding Check			286
Obligations Paid After December 31, 1998:			
1997 Accounts Payable - Payments Made In 1999	\$	2,825	
1998 Accounts Payable - Payments Made In 1999		483	
			<hr/>
Total Obligations Paid After December 31, 1998			3,308

EDMONSON COUNTY
 JAMES H. HOLDER, FORMER SHERIFF
 SCHEDULE OF EXCESS OF LIABILITIES OVER ASSETS
 As Of December 31, 1998
 (Continued)

Liabilities (Continued)

Unpaid Obligations:

Accounts Payable - Unpaid 1997 Invoices	\$	4,932	
Accounts Payable - Unpaid 1998 Invoices		1,549	
Due To-			
1998 Fee Account - 1997 Expense		277	
1998 Fee Account - 1997 Expense		938	
1998 Fee Account - 1998 Receipts		564	
1994 Fees - Delinquent Tax Fees		132	
Payroll and Payroll Related Items:			
Due to Payroll Account - 1998	\$	278	
Due to Payroll Account - 1997		2,836	
Salary Due to Deputies		316	
Garnished Wages Due to Payee		71	
City Withholding Taxes		20	
Employee Insurance		74	
Payroll Liabilities - 1997		499	4,094
Edmonson County -			
Excess Fees - 1998			3,884
State Treasurer-			
Carrying Concealed Deadly Weapon Permits - 1997		200	
Carrying Concealed Deadly Weapon Permits - 1998		1,560	
Total Unpaid Obligations			<u>\$ 18,130</u>
Total Liabilities			<u>\$ 42,480</u>
Total Fund Deficit as of December 31, 1998			<u><u>\$ 13,574</u></u>

COMMENTS AND RECOMMENDATIONS

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS

Calendar Year 1998

STATE LAWS AND REGULATIONS:

- 1) The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998
-

Based on available records, the former Sheriff, James Holder, has a deficit of \$13,574 in his official fee bank account as of December 31, 1998. The deficit results from \$11,984 prior year deficit, \$25 disallowed disbursement, \$1,407 Sheriff's salary paid in excess of the statutory maximum, and \$158 in undeposited receipts. The disallowed disbursement was \$25 interest and penalties paid on a late remittance of withholding tax.

We recommend former Sheriff Holder reimburse the official fee bank account \$13,574 from his personal funds. The disallowed disbursement is further described in the accompanying comments.

Response of Former Sheriff James H. Holder:

Sheriff Holder disputes the finding of the Auditor of Public Accounts as to the deficit of \$11,984.00 in his official fee account as of December 31, 1997. In fact, the Report should show a receivable due from the Edmonson County Fiscal Court, creating a positive balance in the fee account. As set forth below, the Sheriff is entitled to credits for cost of transportation of prisoners and for other official expenses:

- (a) *Sheriff should receive credit for costs of transport of prisoners.*

According to KRS §441.505(1), "The fiscal court of each county shall provide for the transportation of prisoners as necessary from the jail budget." Under this statute, the Edmonson County Fiscal Court should have budgeted for the transportation of prisoners in the jail budget. When Sheriff Holder provided transportation for prisoners, he should have been reimbursed for these expenses from the jail budget, not the Sheriff's budget.

According to the Office of the Attorney General Opinion 91-88, "It follows from the language quoted above that a fiscal court should, subject to availability of funds, assure that the jail budget provides for cost of prisoner transportation. The Sheriff's Office could be reimbursed from the jail budget upon documentation of costs, for its reasonable costs in transporting and standing by with county prisoners . . ." Further, OAG Opinion 84-330 states "A sheriff can only receive compensation or fees for his public services as provided by statute. KRS 441.505(1) provides explicitly that the fiscal court of each county shall provide for the transportation of prisoners as necessary from the jail budget. Assuming proper budgeting of such transportation costs in the jail budget part of the county budget, pursuant to KRS Chapter 68, the sheriff's actual cost of transportation should be paid out of the budgeted fund upon presentation of proper documentation."

It is clear from these Attorney General Opinions that Sheriff Holder should have been reimbursed for any funds expended on the transporting of county prisoners. The failure by the Fiscal Court to reimburse the Sheriff for these expenses has contributed to the reported deficit for Sheriff Holder for the year 1998. If Sheriff Holder would have received reimbursement for these expenses, his ledger would not have shown a deficit for the year 1998.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

1) The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998 (Continued)

(b) *Sheriff should receive credit for other official expenses.*

During the course of his tenure as sheriff, Sheriff Holder incurred various expenses while performing his official duties. Such expenses included, but were not limited to, gasoline expenses, telephone expenses, and general maintenance expenses. The Sheriff should have been reimbursed by the Fiscal Court for such expenses if he had insufficient fees or receipts to cover these official expenses. OAG Opinion 83-360 provides guidance on this topic. It states "If the sheriff, at the end of a calendar year, has insufficient fees or receipts to pay statutorily authorized expenses of his office, the fiscal court, has the responsibility of paying for such expenses out of the county treasury, provided that there is available money in a properly budgeted item."

Before requiring Sheriff Holder to reimburse the County for the deficit in his fee account, an analysis needs to be performed to determine what part of the deficit resulted from the payment of official expenses for which the Sheriff's budget was insufficient. According to OAG Opinion 84-104, the following five (5) factors must be considered in evaluating whether or not the Sheriff's expenses were official: "(1) Such expenses must be explicitly provided for by statute or by reasonable implication of statutory law. (2) Such expenses must be reasonable in amount. (3) Such expenses must be beneficial to the public, and not predominately personal to the officer in the sense that by common understanding and practice they are considered to personal expenses. (4) Such expenses must be necessary for the sheriff's economic and proper administration of that office. (5) The fiscal court is required by KRS 64.530(3) to fix the maximum amount that the sheriff may spend each year for the expense of his office. This is not a lump sum, blanket allowance. This means that the fiscal court may fix in advance the reasonable expenses that would be allowed for each category of expenses."

In the report of the Auditor of Public Accounts, these factors were not analyzed in reviewing Sheriff Holder's excess expenses for the year 1998. Before the Sheriff can be required to pay back any deficit from his personal funds, expenses must be analyzed to determine whether or not they were official in nature. If they are official in nature, and the Sheriff's budget does not cover the expenses, then the County Fiscal Court is required to cover the expenses of the Sheriff's Office. The auditor's report is erroneous because it does not reflect whether or not the deficit is a result of necessary and official expenditures by Sheriff Holder while performing his office.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

1) The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998 (Continued)

(b) *Sheriff should receive credit for other official expenses.*

Even if the County does not have available funds to cover the excess in the Sheriff's budget, Sheriff Holder should not be forced to repay this deficit from his personal funds. The Kentucky case of Funk v. Milliken, Ky., 317 S.W.2d 499 (1958) is instructive. In discussing expenses of the officials, Kentucky's highest court has stated, "This Court...has adopted the view that credit may be allowed for expenses that are reasonable in amount, beneficial to the public, and not predominantly personal to the officer in the sense that by common understanding and practice they are considered to personal expenses." Id at 506. The Court further states "Support for this view is found in Section 106 of the Kentucky Constitution, which recognizes that internal 'necessary office expenses' are a proper charge against these." The Sheriff should receive a credit against his deficit for each official expense. He should not be required to reimburse the County for simply doing his job and carrying out his statutorily mandated functions.

Auditor's Reply:

The auditor stands by the comment as written.

2) The Former Sheriff Should Pay Excess Fees For Calendar Year 1998

The former Sheriff, James Holder, owes excess fees of \$3,884 for calendar year 1998. KRS 134.310 requires the Sheriff to settle excess fees annually with the fiscal court. Excess fees for calendar year 1998 have not been paid. We recommend the former Sheriff pay excess fees to the fiscal court for calendar year 1998. According to KRS 64.820, the fiscal court shall collect any amount due from the Sheriff as determined by the audit. In the event the fiscal court cannot collect the amount due from the Sheriff without suit, the fiscal court shall direct the County Attorney to file suit for the collection of amounts due within ninety days from the date of receipt of the auditor's report.

Response of Former Sheriff James H. Holder:

See Management Response to Comment 1.

Auditor's Reply:

The auditor stands by the comment as written.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

3) The Former Sheriff Should Have Maintained Proper Records And Implemented Proper Accounting Procedures

Under the authority of KRS 68.210, the State Local Finance Officer established uniform accounting procedures for Sheriff's offices. However, former Sheriff Holder did not follow these procedures or maintain proper records as evidenced by the following deficiencies:

- Receipts and disbursements ledgers were not accurately maintained;
- Some receipts were not deposited;
- Proper payroll procedures and records were not followed or maintained;
- Financial statement for 1998 was not prepared and presented to the fiscal court or published in the local newspaper; and,
- Quarterly financial reports were not accurately prepared.

Former Sheriff Holder should have implemented proper accounting procedures and maintained appropriate records.

Response of Former Sheriff James H. Holder:

The records maintained by the Sheriff and the accounting procedures were those which had been followed by the Sheriff's Office in prior years. The Auditor of Public Accounts never commented on the records and accounting procedures in its prior reports. Comments at this late date do not afford the Sheriff the opportunity to institute any corrective action. Further, the Edmonson Fiscal Court has refused to turn over to James Holder the documents concerning the depositing of receipts. As a result of the withholding of the records, James Holder is not in a position to respond further to this comment.

Auditor's Reply:

The auditor stands by the comment as written.

4) The Former Sheriff Should Have Maintained Accurate Receipts And Disbursements Ledgers

KRS 134.160 requires the Sheriff to "keep an accurate account of all moneys received by him" and to "keep an accurate record of all disbursements made by him." Former Sheriff Holder should have maintained accurate receipts and disbursements ledgers as required by the statute.

Response of Former Sheriff James H. Holder:

See Management Response to Comment 3.

Auditor's Reply:

The auditor stands by the comment as written.

EDMONSON COUNTY
 JAMES H. HOLDER, FORMER SHERIFF
 COMMENTS AND RECOMMENDATIONS
 Calendar Year 1998
 (Continued)

STATE LAWS AND REGULATIONS: (Continued)

5) The Former Sheriff Should Have Deposited All Receipts In A Timely Manner

During our audit, we noted several of the former Sheriff's receipts that were not deposited in a timely manner. On July 22, 1998, the former Sheriff sold the department's drug enforcement dog for \$2,250. Payment to the former Sheriff was made by check, and was deposited into the drug fund bank account September 11, 1998, almost two months after the sale. Also, on September 19, 1998, the former Sheriff sold an ATV 4-wheeler, which had been seized in a drug raid, for \$1,800. Payment to the former Sheriff was made by check, and was deposited into the drug fund bank account on February 23, 1999, more than five months after the sale. Per 45 KAR 1:070, county officials should deposit all public funds received into an official bank account on a daily basis. We noted no reasonable explanation for the delays in depositing receipts. The former Sheriff should have deposited all receipts in a timely manner.

Response of Former Sheriff James H. Holder:

None.

6) The Former Sheriff Should Have Paid All Obligations In A Timely Manner

During our audit, we noted invoices totaling \$2,032 for 1998 transactions unpaid as of December 31, 1998; of these, \$1,549 were still unpaid as of the audit date. In addition, we noted \$7,757 for 1997 transactions unpaid as of December 31, 1998; of these, \$4,932 was still unpaid as of the audit date. Former Sheriff Holder should have paid all invoices in a timely manner.

Response of Former Sheriff James H. Holder:

None.

7) The Former Sheriff Should Have Disbursed All Public Funds In Accordance With Legally Prescribed Procedures

Former Sheriff Holder failed to disburse all public funds in accordance with legally prescribed procedures. Therefore, the following disbursements of public funds by former Sheriff Holder during calendar year 1998 are disallowed:

<u>Type of Expense</u>	<u>Fee Account</u>	<u>Reason Disallowed</u>
Interest and Penalties on Late Income Tax Payments	\$ <u>25</u>	Interest and Penalties.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

7) The Former Sheriff Should Have Disbursed All Public Funds In Accordance With Legally Prescribed Procedures (Continued)

Response of Former Sheriff James H. Holder:

Holder contends that all public funds were disbursed in accordance with legally prescribed procedures. For further response, see Management's Response to Comment 1.

Auditor's Reply:

The auditor stands by the comment as written.

8) The Former Sheriff Should Not Have Commingled Public and Private Funds

During calendar year 1998, former Sheriff Holder obtained a bank loan for the purpose of paying his salary prior to tax collection season. Accrued interest of \$2,783 was paid on the bank loan from his official fee bank account. However, the proceeds from the bank loan were deposited into his personal account. Therefore, the handling of the bank loan is considered to be a commingling of public and private funds. KRS 64.850 prohibits the commingling of public and private funds. The former Sheriff should not have commingled public and private funds.

Response of Former Sheriff James H. Holder:

None.

9) The Former Sheriff Should Not Have Been Paid In Excess Of Statutory Maximum Salary

In accordance with KRS 64.527, the Department for Local Government established the maximum salary to be paid to county officials during calendar year 1998 at \$48,726; during the year, former Sheriff Holder was paid \$50,133 in salary. The resulting excess salary paid to former Sheriff Holder of \$1,407 should be returned to the fee account. Also, per KRS 64.535, the maximum monthly salary paid to county officials should be one twelfth (1/12) of the annual salary.

We noted several salary payments to former Sheriff Holder (including the bank loan discussed above) that exceeded the maximum monthly salary. The former Sheriff should have been paid in accordance with the maximum annual and monthly salary limits prescribed by these statutes.

Response of Former Sheriff James H. Holder:

None.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

10) The Former Sheriff Should Have Remitted Quarterly Income Taxes In A Timely Manner

During the audit period, we noted an instance of a late payment being made to the respective taxing authority. The payment was to the Kentucky State Treasurer for state withholding tax. The late payment included interest and penalties totaling \$25. This amount is disallowed. The former Sheriff should have remitted all income tax payments to the proper authorities in a timely manner.

Response of Former Sheriff James H. Holder:

The Sheriff followed and maintained payroll procedures and records in the same manner as he had in past years. The auditor did not disclose any deficiency in these records or procedures in its reports for the calendar years 1995 and 1996. As these issues are being raised after the Sheriff has left office, there is no opportunity to take corrective action.

Auditor's Reply:

The auditor stands by the comment as written.

11) The Former Sheriff Should Have Followed And Maintained Proper Payroll Procedures And Records

KRS 337.320 requires every employer to keep a record of the amount paid each pay period to each employee, and the hours worked each day and each week by each employee. For calendar year 1998, the former Sheriff's individual earnings record was inaccurate. In addition, medicare and retirement withholdings were not accurately computed or withheld on the former Sheriff. The former Sheriff should have followed and maintained proper payroll procedures and records. Specifically, the former Sheriff's individual earnings record should have been accurate, and medicare and retirement withholdings should have been correctly calculated and withheld from the former Sheriff's salary.

Response of Former Sheriff James H. Holder:

The audits for 1995 and 1996 failed to bring this to the Sheriff's attention. Holder was otherwise unaware that such a report was required. As this is being raised at this late date, there is no opportunity to correct.

Auditor's Reply:

The auditor stands by the comment as written.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

12) The Former Sheriff Should Not Have Received Profit On Public Funds

During calendar year 1997, Fiscal Court approved the former Sheriff's request to use fee account money to purchase a vehicle for transporting prisoners, with a maximum purchase price of \$1,600. On June 20, 1997, the former Sheriff purchased a vehicle for \$1,950. Initially, Fiscal Court approved the additional \$350 cost. This approval was reversed as a result of two conditions: first, there was a discrepancy between the odometer reading per the Certificate of Title and the mileage reported by the former Sheriff; and second, it was determined that the former Sheriff did not properly complete the transfer of ownership. Therefore, the former Sheriff should have immediately reimbursed the fee account for the expenditure. However, he did not reimburse the account until April 1998; therefore, the amount constitutes an interest free loan from the fee account to the former Sheriff. Prior to making the reimbursement, the former Sheriff sold the vehicle to his son for \$3,000. Of this amount, \$1,950 was deposited to the fee account, and \$1,050 was retained personally by the former Sheriff as profit from the sale of the vehicle.

Since the cost of the vehicle had not yet been reimbursed, the sale resulted in the former Sheriff receiving profit on public funds. In addition, ownership was not transferred when the former Sheriff sold the vehicle to his son. The vehicle remained registered in the name of the original owner (Commonwealth of Kentucky) from the date the vehicle was sold to the former Sheriff, June 20, 1997, until December 14, 1998, when it was legally transferred to the former Sheriff's son.

Response of Former Sheriff James H. Holder:

It is the position of James Holder that the situation commented on by the auditor in Comment 12 was created by the action of the Edmonson Fiscal Court. The Edmonson Fiscal Court had approved the purchase of the vehicle but chose to reverse the decision after the vehicle had already been purchased as authorized. The Sheriff explained to the Edmonson Fiscal Court that the discrepancy in the odometer reading was the result of the Cabinet for Human Resources declaring higher mileage than on the odometer in order to sell the vehicle as surplus. Once the Sheriff had purchased the vehicle and the Fiscal Court had withdrawn its authorization, the Sheriff did not have sufficient liquidity with which to immediately reimburse the fee account.

Auditor's Reply:

The auditor stands by the comment as written.

13) The Former Sheriff's Official Bond Should Have Been A Minimum of \$10,000

KRS 70.020 requires the Sheriff "execute a bond for the faithful performance of the duties of his office." This bond is required to be at least ten thousand dollars (\$10,000) with sureties approved by the fiscal court. During calendar year 1998, the former Sheriff's bond was for \$5,000. The former Sheriff should have executed an official bond of at least ten thousand dollars (\$10,000).

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

STATE LAWS AND REGULATIONS: (Continued)

13) The Former Sheriff's Official Bond Should Have Been A Minimum of \$10,000 (Continued)

Response of Former Sheriff James H. Holder:

The issue of the Sheriff's bond was not raised in the prior reports of the Auditor of Public Accounts. As this is now being raised for the first time after the Sheriff has left office, there is no opportunity to correct the deficiency. Further, the bond was purchased by the Fiscal Court, not the Sheriff.

Auditor's Reply:

The auditor stands by the comment as written.

14) The Former Sheriff Should Have Filed A Statement Listing All Money And Property Seized And The Disposition Thereof

KRS 218A.440(1) states the following:

"Each law enforcement agency seizing money or property pursuant to KRS 218A.415 shall, at the close of each fiscal year, file a statement with the Auditor of Public Accounts, and with the secretary of justice, containing a detailed listing of all money and property seized in that fiscal year and the disposition thereof. The listing shall identify all property so seized."

During calendar year 1998, the former Sheriff seized money and property pursuant to these statutes, but did not file the required statement. Per KRS 218A.440(2), failure to report as required shall cause the agency to be liable for the full value of all money and property seized during the fiscal year. We are referring this matter to the Attorney General for further investigation.

Response of Former Sheriff James H. Holder:

It is the contention of James Holder that he was never advised by the County Attorney that a statement listing all money and property seized and the disposition thereof should have been filed. No comment was raised by the Auditor of Public Accounts in its reports for the calendar years 1995 and 1996. Since this is being raised for the first time after the Sheriff has left office, there is no opportunity to correct any deficiency.

Auditor's Reply:

The auditor stands by the comment as written.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

INTERNAL CONTROL - REPORTABLE CONDITIONS:

The following are considered reportable conditions and are described in the comments above.

- The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998
- The Former Sheriff Should Have Maintained Proper Records and Implemented Proper Accounting Procedures
- The Former Sheriff Should Have Maintained Accurate Receipts And Disbursements Ledgers
- The Former Sheriff Should Have Deposited All Fee Receipts In A Timely Manner
- The Former Sheriff Should Have Paid All Obligations In A Timely Manner
- The Former Sheriff Should Have Disbursed All Funds In Accordance With Legally Prescribed Procedures
- The Former Sheriff Should Not Have Commingled Public and Private Funds
- The Former Sheriff Should Not Have Been Paid In Excess Of Statutory Maximum Salary
- The Former Sheriff Should Have Remitted Quarterly Income Taxes In A Timely Manner
- The Former Sheriff Should Have Followed And Maintained Proper Payroll Procedures And Records
- The Former Sheriff Should Not Have Received Profit On Public Funds.
- The Former Sheriff Should Have Filed A Statement Listing All Money And Property Seized And The Disposition Thereof

INTERNAL CONTROL - MATERIAL WEAKNESSES:

We consider all of the reportable conditions described above to be material weaknesses.

Response of Former Sheriff James H. Holder:

See Management Response to Comment 1 through 15.

PRIOR YEAR COMMENTS:

- 1) The former Sheriff did not eliminate the deficit in his 1997 Official Fee Account. This finding has not been corrected and is reported as finding No. 1.
- 2) The former Sheriff did not maintain proper records or implement proper accounting procedures. This finding has not been corrected and is reported as finding No. 3.
- 3) The former Sheriff did not maintain accurate receipts and disbursements ledgers. This finding has not been corrected and is reported as finding No. 4.
- 4) The former Sheriff did not pay all obligations in a timely manner. This finding has not been corrected and is reported as finding No. 6.

EDMONSON COUNTY
JAMES H. HOLDER, FORMER SHERIFF
COMMENTS AND RECOMMENDATIONS
Calendar Year 1998
(Continued)

PRIOR YEAR COMMENTS: (Continued)

- 5) The former Sheriff did not disburse funds in accordance with legally prescribed procedures. This finding has not been corrected and is reported as finding No. 7.
- 6) The former Sheriff was paid more than the statutory maximum salary. This finding has not been corrected and is reported as finding No. 9.
- 7) The former Sheriff did not remit quarterly income taxes in a timely manner. This finding has not been corrected and is reported as finding No. 10.
- 8) The former Sheriff did not follow and maintain proper payroll procedures and records. This finding has not been corrected and is reported as finding No. 11.
- 9) The former Sheriff did not prepare and publish an annual settlement. This finding has been corrected and is not reported in the current audit.
- 10) The former Sheriff received profit on public funds. This finding has not been corrected and is reported as finding No. 12.
- 11) The former Sheriff's official bond was inadequate. This finding has not been corrected and is reported as finding No. 13.
- 12) The former Sheriff did not follow proper civil forfeiture procedures in relation to drug and alcohol cases. This finding has been corrected and is not reported in the current audit.
- 13) The former Sheriff did not file a statement listing all money and property seized during the year and the disposition thereof. This finding has not been corrected and is reported as finding No. 14.

Response of Former Sheriff James H. Holder:

See Management Response to Comment 1 through 15.

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REPORT ON COMPLIANCE
AND ON INTERNAL CONTROL OVER FINANCIAL
REPORTING BASED ON AN AUDIT OF THE FINANCIAL STATEMENT
PERFORMED IN ACCORDANCE WITH GOVERNMENT AUDITING STANDARDS



Edward B. Hatchett, Jr. Auditor of Public Accounts

Honorable N. E. Reed, County Judge/Executive
Honorable Billy Joe Honeycutt, Edmonson County Sheriff
Honorable James H. Holder, Former Edmonson County Sheriff
Members of the Edmonson County Fiscal Court

Report On Compliance And On Internal Control Over Financial Reporting Based On An Audit Of The Financial Statement Performed In Accordance With Government Auditing Standards

We have audited the former Edmonson County Sheriff as of December 31, 1998, and have issued our report thereon dated January 5, 2000. We conducted our audit in accordance with generally accepted auditing standards, except as discussed in the last paragraph on page one of this report, and the standards applicable to financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States.

Compliance

As part of obtaining reasonable assurance about whether the former Edmonson County Sheriff's financial statement as of December 31, 1998, is free of material misstatement, we performed tests of its compliance with certain provisions of laws and regulations, noncompliance with which could have a direct and material effect on the determination of financial statement amounts. However, providing an opinion on compliance with those provisions was not an objective of our audit and, accordingly, we do not express such an opinion. The results of our tests disclosed instances of noncompliance that are required to be reported under Government Auditing Standards which are described in the accompanying comments and recommendations, included herein.

- The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998
- The Former Sheriff Should Pay Excess Fees For Calendar Year 1998
- The Former Sheriff Should Have Maintained Proper Records and Implemented Proper Accounting Procedures
- The Former Sheriff Should Have Maintained Accurate Receipts And Disbursements Ledgers
- The Former Sheriff Should Have Deposited All Fee Receipts In A Timely Manner
- The Former Sheriff Should Have Paid All Obligations In A Timely Manner
- The Former Sheriff Should Have Disbursed All Funds In Accordance With Legally Prescribed Procedures
- The Former Sheriff Should Not Have Commingled Public and Private Funds
- The Former Sheriff Should Not Have Been Paid In Excess Of Statutory Maximum Salary
- The Former Sheriff Should Have Remitted Quarterly Income Taxes In A Timely Manner.
- The Former Sheriff Should Have Followed And Maintained Proper Payroll Procedures And Records

Honorable N. E. Reed, Edmonson County Judge/Executive
Honorable Billy Joe Honeycutt, Edmonson County Sheriff
Honorable James H. Holder, Former Edmonson County Sheriff
Members of the Edmonson County Fiscal Court
Report On Compliance And On Internal Control
Over Financial Reporting Based On An Audit Of The Financial
Statement Performed In Accordance With Government Auditing Standards
(Continued)

- The Former Sheriff Should Not Have Received Profit On Public Funds
- The Former Sheriff's Official Bond Should Have Been A Minimum of \$10,000
- The Former Sheriff Should Have Filed A Statement Listing All Money And Property Seized And The Disposition Thereof

Internal Control Over Financial Reporting

In planning and performing our audit, we considered the former Edmonson County Sheriff's internal control over financial reporting in order to determine our auditing procedures for the purpose of expressing our opinion on the financial statement and not to provide assurance on the internal control over financial reporting. However, we noted certain matters involving the internal control over financial reporting and its operation that we consider to be reportable conditions. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control over financial reporting that, in our judgment, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial statement. Reportable conditions are described in the accompanying comments and recommendations, included herein.

- The Former Sheriff Should Not Have A Cumulative Deficit Of \$13,574 In His Official Fee Account As Of December 31, 1998
- The Former Sheriff Should Have Maintained Proper Records and Implemented Proper Accounting Procedures
- The Former Sheriff Should Have Maintained Accurate Receipts And Disbursements Ledgers
- The Former Sheriff Should Have Deposited All Fee Receipts In A Timely Manner
- The Former Sheriff Should Have Paid All Obligations In A Timely Manner
- The Former Sheriff Should Have Disbursed All Funds In Accordance With Legally Prescribed Procedures
- The Former Sheriff Should Not Have Commingled Public and Private Funds
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- The Former Sheriff Should Have Remitted Quarterly Income Taxes In A Timely Manner
- The Former Sheriff Should Have Followed And Maintained Proper Payroll Procedures And Records
- The Former Sheriff Should Not Have Received Profit On Public Funds.
- The Former Sheriff Should Have Filed A Statement Listing All Money And Property Seized And The Disposition Thereof

Honorable N. E. Reed, Edmonson County Judge/Executive
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Over Financial Reporting Based On An Audit Of The Financial
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(Continued)

A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level the risk that misstatements in amounts that would be material in relation to the financial statement being audited may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions. Our consideration of the internal control over financial reporting would not necessarily disclose all matters in the internal control that might be reportable conditions and, accordingly, would not necessarily disclose all reportable conditions that are also considered to be material weaknesses. However, we consider all of the reportable conditions described above to be material weaknesses.

This report is intended for the information of management. However, this report, upon release by the Auditor of Public Accounts, is a matter of public record and its distribution is not limited.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Ed Hatchett", with a long horizontal flourish extending to the right.

Edward B. Hatchett, Jr.
Auditor of Public Accounts

Audit fieldwork completed -
January 5, 2000

